



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 3545-99

2 December 1999

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) Case Summary
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy filed an application with this Board requesting that the reason for his discharge and reenlistment code be changed.

2. The Board, consisting of Mr. Tew, Ms. Nofziger and Ms. Gilbert 16 November 1999, reviewed Petitioner's allegations of error and injustice on 16 November 1999 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Petitioner's application was filed in a timely manner.

c. Petitioner enlisted in the Navy on 26 January 1994 at age 20. The record shows that he completed recruit training and began advanced training.

d. According to Petitioner, he became dissatisfied with the unprofessional and unmilitary behavior of Navy personnel, and realized that he had made a mistake in enlisting in the Navy and not the Marine Corps. He states that he discovered that others were getting out of the Navy after they discussed their problems with the chaplain. After Petitioner spoke to the chaplain, he was referred for a psychiatric evaluation. The record shows that on 27 September 1994 the Navy psychologist found that he had a "personality disorder, not otherwise specified", and retention on active duty carried with it the

"omnipresent risk of suicide." Expeditious administrative separation was strongly recommended.

e. Based on the psychiatric diagnosis, Petitioner was processed for an administrative separation. In connection with this processing he elected to waive his procedural rights. After review the discharge authority directed an honorable discharge. At that time, Petitioner was not recommended for reenlistment and was assigned an RE-4 reenlistment code.

f. Petitioner applied to this Board in 1997 after he discovered that he could not enlist in the Marine Corps because of the reason for his discharge and the RE-4 reenlistment code. That application was denied, essentially because he had not submitted any evidence to refute the psychiatric evaluation done by the Navy.

g. Petitioner has submitted an evaluation from a psychologist with his current application which states, in part, as follows:

... It seems clear that (Petitioner) had a Reactive Depressive Episode related to his personal life, career goals in the service, and his immaturity at that time. Such an episode can cause emotional and work performance problems. The sad part of this is that counseling could have helped (him) and saved the Navy the loss of its investment. ...

I must comment that the "documentation" that I have does not meet even minimum expected standards. There was a mistake in diagnosis and I greatly doubt the probability of suicidal thought. In fact, this whole evaluation and resulting decision was "too quick and too superficial." Again, I would note that the strongest evidence of error was the diagnosis of a "Personality Disorder." The personality findings in no way meet the DSM IV criteria for such a diagnosis.

h. Attached to enclosure (1) is an advisory opinion from the Navy concerning the conflicting diagnoses which states, in part, as follows:

... The documentation of a personality disorder in (Petitioner's) Navy medical record is minimal and does not clearly identify the nature of the long-standing disorder of character and behavior nor does it provide sufficient evidence of the severity of personality traits which would preclude further service in the military. Although (Petitioner) was evaluated for

suicidal ideations, there is no evidence of a suicide attempt or a history of prior suicide attempts.

... (Petitioner) provides documentation which does not support the diagnosis of a personality disorder. Specifically, the report documenting (the civilian psychiatrist's) psychological evaluation and psychological testing provides evidence inconsistent with a diagnosis of personality disorder. Additionally, the character references provided by (Petitioner) provide evidence inconsistent with the existence of a long-standing disorder of character and behavior of such severity as to interfere with serving adequately in the military.

... Opinion and Recommendations: There is evidence in the information provided to support removing the diagnosis of personality disorder and amending (his) reenlistment code from RE-4 to RE-1.

i. The Board is aware that regulations allow for discharge by reason of "best interest of the service" or "Secretarial Authority" when discharge is warranted but no other reason for discharge is appropriate

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board notes Petitioner's version of events which led to his discharge, the excellent character references he submitted and the psychiatric evaluation from the civilian psychologist and could find no basis on which to disagree with the favorable recommendation contained in the advisory opinion. Therefore, the Board concludes that the reason for discharge and reenlistment code should be changed.

Given Petitioner's desire for discharge, the Board concludes that discharge on 8 November 1994 was warranted. Therefore, since no other reason for discharge is appropriate, the reason for discharge should be changed to best interest of the service or Secretarial Authority vice the reason for discharge of personality disorder now of record. The record should be further corrected to show that he was assigned an RE-1 reenlistment code.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 8 November 1994 he was honorably discharged by reason of Secretarial Authority with an RE-1 reenlistment code vice the


reason for discharge and reenlistment code now of record.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

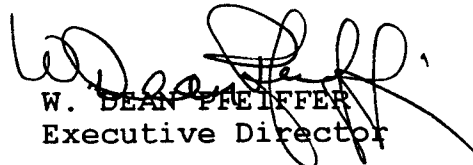
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director